IN THE HIGH COURT OF JUDICATURE AT BOBBY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7285 OF 2004

Shri Krishnadeo Jalindar Kumbhar .. Petitioner

Vs.

Divisional Controller Maharashtra State Road Transport Corporation, Sangli Division, Sangli. .. Respondent

Mr. Umesh R. Mankapure for petitioner.
Mr. C.M. Lokesh for Respondent.

CORAM: **B.H. MARLAPALLE,J.**

DATED: **JUNE 9, 2005**

P.C.:

1. Heard Mr. Mankapure, the learned counsel for the petitioner who was employed as a Conductor in the respondent-corporation which is an undertaking of the State of Maharashtra.

2. On 23//8/96 the petitioner was on duty as Conductor on Bus No.8892 plying between village Alkud to Jath. The said Bus was checked by the Inspection Squad of the department. During this checking it was noticed that the petitioner had accepted an amount of Rs.44/- from the passenger Tamanna Davgoudi as fare of two passengers and had issued two tickets of Rs.20/-

denomination each and two tickets of Rs.1.50 denomination each. These tickets were found to be used tickets which were resold by the petitioner. Secondly, one passenger by name Mahadev Malati Chavan had paid Rs.44/- and the petitioner had issued two tickets of 50 paise denomination each, another set of two tickets of denomination of Rs.1.50 and the third set of denomination of Rs.20/- each. These were also found to be tickets which were resold. Thirdly, cash to the extent of Rs.43.75 was found short with the petitioner during the time of checking. He was, therefore, issued a charge-sheet for the misconduct under Rule 7(E) 7(J), 10, 22, 28 and 44 (A) of Schedule-A of D. & A. Rules of Corporation. A departmental inquiry was conducted in which the petitioner was found to be guilty and based on that report show cause notice was issued to the petitioner. Ultimately, he came to be dismissed by the respondent vide order dated 18/3/1998. He challenged the said order in departmental appeal which was dismissed on 19/9/1998. He, therefore, approached the Labour Court in Complaint (ULP) No.101/1998 which was allowed partly by the Judgment and Order dated 4/10/1999. The order of dismissal was set aside and the petitioner was directed to be reinstated with continuity of service but without backwages. The Corporation, therefore, challenged the said order by filing Revision

Application (ULP) No.175/1999 in the Industrial Court at Kolhapur which came to be re-registered as Revision Application (ULP) No.44/1999 before the Industrial Court at Sangli. The said revision has been allowed and the order passed by the Labour Court has been set aside. Hence, this petition under Article 227 of the Constitution.

3. The Labour Court in clear terms held that the findings recorded by the Enquiry Officer regarding the charge of misconduct under Clauses 7(E) and 7(J) were correct and they did not call for any interference. These are the charges regarding misappropriation of the funds of the Corporation as well as resale of used tickets. The Labour Court held that the other charges under Clauses 10. 22, 28 and 44(A) were not proved. There is no dispute that the charges accepted to have been proved against the petitioner are acts of major misconduct for which the punishment of dismissal has been provided under the Discipline and Appeal Procedure as formulated by the respondent-Corporation. The petitioner was a public servant and it was not permissible for the Labour Court to interfere with the quantum of punishment when acts of major misconduct were duly proved. The Industrial Court, therefore, rightly interfered with the order passed by the Labour Court and

set aside the complaint. While exercising the revisional jurisdiction, the Industrial Court is empowered to correct the errors apparent on the face of the record and order of the Labour Court allowing the complaint partly and directing reinstatement was one such order which suffered from gross errors in law when on the face of its own findings that the charges of major misconduct were duly proved. Hence, the impugned Judgment and Order of the Industrial Court does not call for any interference under Article 227 of the Constitution.

4. In the result, petition is rejected summarily.

(B.H. Marlapalle,J.)